

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

LODSYS, LLC

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v.

Case No. 2:11-CV-90-JRG  
LEAD CASE<sup>1</sup>BROTHER INTERNATIONAL  
CORPORATION, ET AL.

**DOCKET CONTROL ORDER**

It is hereby ORDERED that the consolidated cases will proceed according to the following schedule of deadlines:

October 7, 2013	*Jury Selection – 9:00 a.m. in <b>Marshall, Texas</b>
October 1, 2013	*Pretrial Conference – 9:00 a.m. in <b>Marshall, Texas</b>
September 19, 2013	*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
September 17, 2013	File Responses to Motions <i>in Limine</i>
September 10, 2013	*File Joint Pretrial Order, Proposed Jury Instructions and Proposed Verdict Form
September 3, 2013	*File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Susan Simmons, at <a href="mailto:lssimmons@yahoo.com">lssimmons@yahoo.com</a> .
August 27, 2013	File Motions <i>in Limine</i>  The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not

<sup>1</sup> This Docket Control Order shall apply across the following cases, which have been consolidated for pretrial purposes: 2:11-cv-90-JRG, 2:11-cv-272-JRG, 2:11-cv-283-JRG, 2:12-cv-284-JRG, 2:12-cv-286-JRG, 2:12-cv-287-JRG, 2:12-cv-288-JRG, 2:12-cv-289-JRG, 2:12-cv-290-JRG, and 2:12-cv-291-JRG (the “Consolidated Cases”). The Docket Control Order, further, shall supersede any Docket Control Orders entered already in any of the Consolidated Cases.

	alleviate the prejudice by giving appropriate instructions to the jury.
August 27, 2013	Serve Objections to Rebuttal Pretrial Disclosures
August 20, 2013	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
August 6, 2013	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
August 2, 2013	*File Dispositive Motions or Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No dispositive motion or motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
July 30, 2013	Deadline to Complete Expert Discovery
July 16, 2013	Serve Disclosures for Rebuttal Expert Witnesses
June 25, 2013	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
June 21, 2013	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
June 5, 2013	*Deadline to File Letter Briefs Regarding Dispositive Motions
June 4, 2013	Deadline to Complete Mediation
May 7, 2013	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
April 30, 2013	*Claim Construction Hearing – 1:30 p.m. in <b>Marshall, Texas</b>
April 19, 2013	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
March 29, 2013	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
March 18, 2013	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
February 5, 2013	Deadline to Substantially Complete Document Production and Exchange Privilege Logs. Defendants in cases 2:11-cv-272, 2:12-cv-284, and 2:12-cv-286 through 2:12-cv-291 shall have until the later stated deadline to comply. Defendants in all other cases shall meet the earlier deadline.
March 1, 2013	Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.

February 19, 2013	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)
February 1, 2013	File Response to Amended Pleadings
February 5, 2013	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
January 18, 2013	*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
January 11, 2013	Comply with P.R. 4-3 (Joint Claim Construction Statement)
December 18, 2012	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
December 5, 2012	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
November 19, 2012	Deadline to comply with P.R. 3-3 and 3-4 (Invalidity Contentions) for any defendant whose deadline to comply with P.R. 3-3 and 3-4 has not yet passed.
October 15, 2012	Join Additional Parties
October 12 2012	*File Notice of Mediator
October 12, 2012	*File Proposed Docket Control Order, Proposed Discovery Order, and Proposed Protective Order

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

### **ADDITIONAL REQUIREMENTS**

**Notice of Mediator:** The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

**Summary Judgment Motions:** Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than the deadline for filing letter briefs. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine

whether the filing of any motion will be permitted. Letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.<sup>2</sup>

**Indefiniteness:** In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

**Form of the Pretrial Order and Pretrial Disclosures:** The Court will issue a standing order governing the form of the pretrial order and pretrial disclosures at least four months prior to trial. The parties may obtain a copy of the order from the Court's website at that time.

**Motions for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**So ORDERED and SIGNED this 22nd day of April, 2013.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Per the Court's September 17, 2012 Order regarding case management (Dkt. No. 329), the Court has rescinded its letter briefing requirement with regard to any early motion for summary judgment by Apple regarding the license and exhaustion issues addressed in the Order.